

STATE OF MICHIGAN
IN U.S DISTRICT COURT - EASTERN MICHIGAN

ALLSTATE INSURANCE COMPANY;
ALLSTATE PROPERTY AND
CASUALTY INSURANCE COMPANY;
ESURANCE INSURANCE COMPANY;
and ESURANCE PROPERTY AND
CASUALTY INSURANCE COMPANY;

Plaintiffs,

v.

SUMMIT PHYSICIANS GROUP, PLLC;
SUMMIT MEDICAL GROUP, PLLC;
SUMMIT DIAGNOSTIC SERVICES;
PLLC; GREATER DETROIT PHYSICAL
THERAPY & REHABILITATION, P.C.
d/b/a MERRIMAN PHYSICAL THERAPY
AND REHABILITATION, INC.; OAK
PARK PHYSICAL THERAPY; and
WARREN PHYSICAL THERAPY AND
REHABILITATION, P.C.; DAVID PETER
JANKOWSKI, D.O.; LARAN
JOHNATHON LERNER, D.O.; KEVIN
CRAWFORD, D.O.; and THOMAS
GIANCARLO, D.O.

Defendants.

Case No. 2:16-CV-13657-BAF-MKM

Hon. Bernard A. Friedman

**EMERGENCY MOTION FOR
RELIEF FROM ORDER of
NOVEMBER 9, 2018
CONDITIONALLY
ALLOWING LIONEL E.
BASHORE AND IAN N.
COOTE TO WITHDRAW AS
COUNSEL FOR SUMMIT
MEDICAL GROUP, PLLC AND
DR. DAVID P. JANKOWSKI,
D.O.**

NOW COMES Bashore Green Law Group, P.C., by Lionel Bashore and Ian N. Coote,
pursuant to Federal Rule of Civil Procedure 60, and hereby requests the following relief:

- A. That Lionel Bashore, Ian N. Coote, and Bashore Green Law Group, P.C. be permitted to
immediately and unconditionally withdraw as counsel for Defendants Summit Medical
Group, PLLC, Dr. David P. Jankowski, D.O.
- B. That this Honorable Court enter the attached Order granting relief from order of November
9, 2011 to all the immediate and unconditional withdrawal of Lionel Bashore, Ian N. Coote
and Bashore Green Law Group, P.C.

C. That this Honorable Court grant such other relief as is equitable and just.

In support of the relief requested above, Lionel Bashore, Ian N. Coote and Bashore Green Law Group, P.C. states the following:

1. Bashore Green Law Group, by Lionel E. Bashore and Ian N. Coote, filed a motion with the court requesting leave to withdraw as counsel for Summit Medical Group and Dr. David Jankowski due to a breakdown in the attorney client relationship. (Docket # 208)
2. On November 9, 2018, this court conditionally granted the motion to withdraw ordering that current counsel for Summit Medical Group and Dr. David Jankowski could withdraw once a substitute attorney had entered an appearance for Defendants. (Docket # 216)
3. At that time and by the same order, the court defaulted Defendants Summit Medical Group and Dr. Jankowski and set an evidentiary hearing to determine damages on March 19, 2019.
4. The Defendants will need to prepare for this hearing and review proofs of damages proffered by Plaintiff.
5. Since November 9, 2018, the parties have been engaged in settlement discussions.
6. However, during the course of discussions an incurable conflict of interest has arisen which requires that counsel for Summit Medical Group and Dr. Jankowski be allowed to withdraw as counsel.
7. Michigan Rules of Professional Conduct 1.16 states: a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or other law

8. Given that there is still much work to do in this case, this conflict of interest materially limits Bashore Green Law Group's ability to represent Defendants Summit Medical Group and Dr. Jankowski in this matter.
9. Michigan Rules of Professional Conduct 1.7 (b) state: A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests.
10. Counsel for defendants Summit Medical Group and Dr. David Jankowski have been placed in a position where their representation is materially limited by conflicts that have arisen between the lawyers and their clients.
11. Federal Rule of Civil Procedure 60 states that "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for... (6) any other reason that justifies relief."
12. Counsel for Defendant submits that the reasons outlined in this motion justify the request for the relief sought and move this court to enter an order allowing immediate and unconditionally withdrawal of Lionel E. Bashore and Ian N. Coote and Bashore Green Law Group as counsel for Defendants and give 60 days to find new counsel.
13. A copy of this motion was served on Dr. David P. Jankowski, D.O., and Summit Medical Group on January 29, 2019.
14. This motion is supported by the files and records in this case, the laws of the State of Michigan and rules of this Court, and general principles of equity.

Defense counsel sought concurrence from Plaintiff counsel for the relief requested by this motion under Local Rule 7.1(a) but it was not obtained.

Respectfully submitted,

BASHORE GREEN LAW GROUP,
a Professional Corporation,

/s/ Ian N. Coote

Ian N. Coote (P73154)
Attorneys for Summit Medical Group, and Dr.
David Jankowski
17 S. Saginaw Street, 2nd Floor
Pontiac, Michigan 48342
PH: (248) 209-6009 / FX (248) 209-6010

Dated: January 28, 2019

PROOF OF SERVICE

Cynthia M. Chiavello states under oath that on January 29, 2019, she filed (1) Emergency Motion for Relief from Order of November 9, 2018, Conditionally Allowing Lionel E. Bashore and Ian N. Coote to Withdraw as Counsel for Summit Medical Group, PLLC and Dr. David Jankowski, D.O., (2) Proposed Order Relieving Bashore Green from Order of November 9, 2018, and Allowing Immediate and Unconditional Withdrawal of Counsel for Summit Medical Group, PLLC and Dr. David P. Jankowski, D.O., and (3) this Proof of Service, with the Clerk of the Court using the ECF system which will send notification to all parties of record.

and

Cynthia M. Chiavello states under oath that on January 29, 2019, she served copies of the following documents: (1) Emergency Motion for Relief from Order of November 9, 2018, Conditionally Allowing Lionel E. Bashore and Ian N. Coote to Withdraw as Counsel for Summit Medical Group, PLLC and Dr. David Jankowski, D.O., (2) Proposed Order Relieving Bashore Green from Order of November 9, 2018, and Allowing Immediate and Unconditional Withdrawal of Counsel for Summit Medical Group, PLLC and Dr. David P. Jankowski, D.O., and (3) this Proof of Service, upon:

Summit Medical Group, PLLC
Dr. David P. Jankowski, D.O.
1010 Bowers, Suite D.
Birmingham, Michigan 48009
djanko1@aol.com

Angela Morales
amorales@summitgroupmd.com

by Email to the Email addresses listed above.

I declare that the statements above are true to the best of my information, knowledge and belief.

/s/ Cynthia M. Chiavello
Cynthia M. Chiavello

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Defendants.

PROPOSED ORDER

**RELIEVING BASHORE
GREEN FROM ORDER OF
NOVEMBER 9, 2018 AND**

**ALLOWING IMMEDIATE
AND UNCONDITIONAL
WITHDRAWAL OF COUNSEL
FOR SUMMIT MEDICAL
GROUP, PLLC AND DR.
DAVID P. JANKOWSKI, D.O.**

This matter having come before the Court on Bashore Green Law Group, P.C.'s
Emergency Motion for Relief from Order of November 9, 2018, and the Court being otherwise
fully advised in the premises,

IT IS HEREBY ORDERED as follows:

1. Bashore Green Law Group, P.C.'s motion for relief from order is granted and Bashore
Green Law Group, P.C., by Lionel Bashore and Ian N. Coote, are hereby immediately and

unconditionally withdrawn as counsel for Defendants Summit Medical Group, PLLC and Dr. David P. Jankowski, D.O. in this matter.

2. This matter shall be stayed for 60 days to allow Defendants Summit Medical Group and Dr. David Jankowski to obtain new counsel.
3. Until Defendants Summit Medical Group, PLLC and Dr. David P. Jankowski, D.O. retain replacement counsel, notices for all Summit Medical Group, PLLC and Dr. David P. Jankowski, D.O. can be sent to Summit Medical Group, PLLC, 1010 Bowers, Suite D., Birmingham, Michigan 48009 and to Dr. David Jankowski, D.O. at djanko1@aol.com.

IT IS SO ORDERED

Bernard A. Friedman
District Court Judge

Dated: